IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

WA.No. 2769 of 2007

AGAINST THE JUDGEMEN IN WPC.33844/2007 Dated 16/11/2007
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APPELLANT/PETITIONER:

K.M.NASSARUDDIN,
S/O.ABDUL MAJEED,
PALLIKKUNNEL HOUSE,
HIGHWAY BYPASS ROAD,
NETTOOR,
ERNAKULAM.

BY ADV. SRI.JOSE JOSEPH ARAYAKUNNEL
SRI.VARGHESE PARAMBIL
SRI.P.T.JOSE

RESPONDENTS/RESPONDENTS:
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1. STATE OF KERALA,
REP. BY DISTRICT COLLECTOR,
ERNAKULAM.

2. TAHSILDAR (RR),
KANAYANNOOR TALUK,
ERNAKULAM.

3. THE ORIENTAL INSURANCE COMPANY LTD.,
COCHIN-24.

BY SR. GOVT. PLEADER SMT. K. MEERA.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22/11/2007,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, CJ. & K.M. JOSEPH, J.

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WRIT APPEAL No.2769 of 2007

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Dated this the 22nd day of November, 2007.

JUDGMENT

H.L.DATTU, CJ,

Appellant is the owner of lorry bearing No.KI 7/U 3191. He has questioned the legality or otherwise of the recovery notices issued by the respondents in the writ petition pursuant to an award passed by the Motor Accidents Claims Tribunal (MACT). In the award passed, the Presiding Judge of the Tribunal had directed the Insurance Company to deposit the compensation amount awarded and then to recover the same from respondents 1 and 2 in those proceedings. The appellant before us was the first respondent in the award.

2. Petitioner has called in question Exts.P4 and P4(a) notices issued by the Revenue Recovery Officer on the request made by the Insurance Company.

3. The learned Judge has rejected the writ petition solely on the ground that the award has become final since nobody has questioned the correctness or otherwise of the said award before any other superior forum.

4. In the instant case, it is not in dispute that the award passed by the MACT has become final. Pursuant to the award so passed, the Insurance Company has deposited the compensation amount awarded in the award. Thereafter as permitted by the Tribunal, has initiated proceedings to recover the compensation amount paid by it from the owner of the vehicle and also the person in charge of the vehicle, which met with an accident.

5. First and foremost, the appellant could not have merely questioned the revenue recovery notice without questioning the correctness or otherwise of the award before an appropriate forum. Even on that short ground, the learned Single

Judge could have rejected the writ petition. Secondly, since the award has become final and pursuant to the said award if proceedings under the Revenue Recovery Act is initiated, the appellant cannot be said to be an aggrieved person. In that view of the matter also the learned Single Judge could have rejected the matter.

6. Taking the latter view as the basis, the learned Single Judge has rejected the writ petition. In that view of the matter, we are of the firm opinion that the learned Single Judge has not committed any error whatsoever, which would call for our interference. Accordingly the Writ Appeal requires to be rejected and it is rejected.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE

K.M. JOSEPH,
JUDGE

sb.